

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

Chubb Insurance Company Of New Jersey as subrogee of Saul A. Scherl and Jodi B. Scherl <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> InSinkErator, a Division of Emerson, John Does 1-5, and ABC Corps 1-5 <p style="text-align: center;">Defendants.</p>		Civil Action No. <p style="text-align: center;">NOTICE OF REMOVAL</p>

Defendant InSinkErator division of Emerson Electric Co., improperly pleaded as InSinkeErator, a Division of Emerson [hereinafter “InSinkErator”], by and through its attorneys of record, DiRienzo & DiRienzo, P.A., and in accordance with 28 U.S.C. §§ 1332, 1441(a), and 1446, be and hereby remove the above captioned action, which has been filed in the New Jersey Superior Court, Law Division, Bergen County, Docket No. L-5059-21, to the United States District Court for the District of New Jersey. Those facts giving rise to the removal of this matter are as follows:

1. This is a product liability action (brought by an insurance company) that allegedly arose out of water damage that occurred at the home of Saul A. Scherl and Jodi B. Scherl in Englewood, New Jersey on or about February 2, 2018. Plaintiffs allege that an InSinkErator Evolution Pro garbage disposal designed, manufactured, and/or sold by defendant failed due to a design and/or manufacturing defect, and/or due to the lack of adequate warnings and instruction. See Exhibit A, plaintiff’s complaint.

2. Plaintiff Chubb Insurance Company of New Jersey [hereinafter “Chubb”] is a New Jersey Corporation with its principal place of business located at 202B Hall’s Mill Road, Whitehouse Station, New Jersey, 08889. Chubb was the Scherl’s homeowner’s insurance carrier and is seeking to recover losses paid to the Scherl’s through this subrogation lawsuit.

3. InSinkErator is a division of Emerson Electric Co. [hereinafter “Emerson”], which is a Missouri corporation with its principal place of business in St. Louis, Missouri.

4. Pursuant to 28 U.S.C. §1441(b)(1), the citizenship of the fictitious defendants is to be disregarded for purposes of determining whether a civil action is removable under diversity jurisdiction. Accordingly, for removal purposes, there are no other defendants in this matter, and no defendants are citizens of the State of New Jersey.

5. This product liability action seeks reimbursement of monies paid to the Scherls for property damage in allegedly caused by InSinkErator’s product in the amount of \$94,690.31 plus interest thereon, attorney’s fees, other costs of suit, and other relief. See Exhibit A, Second Court, ad damnum clause. As such, the amount in dispute is in excess of \$75,000 exclusive of interests and costs as required by 28 U.S.C. §1332(a).

6. Based on the foregoing, and in accordance with 28 U.S.C. §1332(a)(1) and 28 U.S.C. §1332(c)(1), there is diversity of citizenship and an amount in dispute in excess of \$75,000, giving this court jurisdiction over this matter based on the parties’ diversity of citizenship.

7. Plaintiff’s complaint was filed in this matter in the Superior Court of New Jersey, Law Division, Bergen County under docket number L-5059-21 on or about July 30, 2011, making the filing of this notice of removal timely under 28 U.S.C. §1446(b).

8. In accordance with 28 U.S.C. §1441(a), this diversity action is properly removable to the United States District Court for the District of New Jersey as being the district embracing the place where the state court action filed by plaintiff is pending.

9. Venue is proper in the United States District Court for the District of New Jersey under 28 U.S.C. §1391(a)(2), as plaintiff has alleged that a substantial part of the events giving rise to this action occurred in New Jersey.

10. In accordance with 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon counsel for Plaintiffs, and a copy is being filed in the New Jersey Superior Court, Law

Division, Bergen County, New Jersey

WHEREFORE, it is respectfully requested that this matter be removed to the United States District Court for the District of New Jersey in accordance with 28 U.S.C. §§ 1332, 1441(a), and 1446. InSinkErator further herewith demands a trial by jury of all issues to be presented in this matter.

s/Joseph DiRienzo

Joseph DiRienzo (JD 3610)

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Attorneys for Defendant InSinkErator, a
Division of Emerson Electric Co.,
improperly pleaded as Insinkerator
Division of Emerson.

Dated: August 9, 2021

